

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
EASTERN DIVISION

BETTY SUE MITCHELL

PLAINTIFF

v.

CIVIL ACTION NO. 2:20-cv-04-TBM-LGI

ANDREW SAUL,  
COMMISSIONER OF SOCIAL SECURITY

DEFENDANT

ORDER ADOPTING REPORT AND RECOMMENDATION  
AND GRANTING RESPONDENT'S MOTION TO DISMISS

This matter is before the Court on submission of the Report and Recommendation [17] entered by United States Magistrate Judge LaKeysha Greer Isaac on July 20, 2021. The Plaintiff, Betty Sue Mitchell, appeals the final Social Security Administration decision of the Administrative Law Judge (“ALJ”) denying her claim for disability benefits and supplemental security income. The Plaintiff specifically raises two errors on appeal: (1) the ALJ’s residual functional capacity is not supported by substantial evidence, and (2) the ALJ failed to properly consider Plaintiff’s subjective complaints and limitations. Upon consideration of the hearing transcript, the medical records in evidence, and the applicable law, Judge Isaac recommends that the Court grant the Commissioner’s Motion [12] to Affirm and affirm the Commissioner’s final decision.

The Plaintiff has not filed an objection to the Report and Recommendation, and the time for filing an objection has expired. “When a party fails timely to file written objections to the magistrate judge’s proposed findings, conclusions, and recommendation, that party is barred from attacking on appeal the unobjected-to proposed findings and conclusions which the district court accepted, except for plain error.” *Casas v. Aduddell*, 404 F. App’x 879, 881 (5th Cir. 2010) (citing

*Douglas v. United Serv. Auto Ass'n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996) (en banc); 28 U.S.C. § 636(b)(1)).

Having reviewed the Report and Recommendation for clear error, and finding none, the Court is satisfied that Judge Isaac has undertaken an extensive examination of the issues in this case and has issued a thorough opinion. Within the Report and Recommendation, Judge Isaac first finds that the ALJ's residual functional capacity is supported by substantial evidence. *Leggett v. Chater*, 67 F.3d 558, 564 (5th Cir. 1995) ("Substantial evidence is that which is relevant and sufficient for a reasonable mind to accept as adequate to support a conclusion; it must be more than a scintilla, but it need not be a preponderance.") (quoting *Anthony v. Sullivan*, 954 F.2d 289, 295 (5th Cir. 1992)). The ALJ relied on the medical opinions issued after the Plaintiff's shoulder surgery rather than those issued by her primary treating physician prior to surgery. The Report and Recommendation explains that while the Plaintiff was not symptom free after her surgery, the record does not establish that she experienced post-surgery limitations beyond those assessed in the ALJ's residual functional capacity determination. The record does not support a finding that the Plaintiff's limitations prevented her from working within her residual functional capacity, and there is no basis for reversal or remand of the ALJ's decision.

Judge Isaac also found within the Report and Recommendation that the ALJ's credibility assessment is substantially supported by the record in this case. In evaluating the Plaintiff's subjective complaints and limitations, the ALJ considered numerous reports, medical evidence, and the Plaintiff's testimony that her pain level remained unchanged since her injury. The Report and Recommendation notes that upon review, the ALJ found the Plaintiff's complaints concerning the intensity, persistence, and limitations of her impairments were not fully supported by the

medical evidence. The Plaintiff's self-described limitations reported in her administrative findings indicate that she was able to get her grandchildren ready for school every day and perform household activities like those performed in physical therapy post-surgery, Judge Isaac found that the record does not support reversal of the ALJ's credibility determination.


The Court finds that the Report and Recommendation is neither clearly erroneous nor contrary to law. FED. R. CIV. P. 72(b).

IT IS ORDERED AND ADJUDGED that the Report and Recommendation [17] entered by United States Magistrate Judge LaKeysha Greer Isaac on July 20, 2021 is ADOPTED as the opinion of the Court.

IT IS FURTHER ORDERED AND ADJUDGED that the Defendant's Motion [12] to Affirm the Commissioner's final decision is GRANTED. The decision of the Social Security Administration is AFFIRMED, and this CASE is DISMISSED with PREJUDICE.

A separate judgment will be entered in accordance with Federal Rule of Civil Procedure 58.

THIS, THE 24th DAY OF AUGUST, 2021.

  
TAYLOR B. McNEEL  
UNITED STATES DISTRICT JUDGE